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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MERCHANT CASH & CAPITAL, LLC,

BROOKLYN OFFICE

Plaintiff,

-against-

PROGRESSIVE RENT A CAR, INC., and EMIL
HADAD,

Defendants.
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ANN M. DONNELLY, United States District Judge:

**ORDER ADOPTING REPORT
AND RECOMMENDATION**
16-cv-3720 (AMD) (VMS)

On July 5, 2016, the plaintiff, Merchant Cash & Capital, LLC, commenced this action against the defendants, Progressive Rent A Car, Inc., and Emil Hadad, claiming breach of contract and breach of a guaranty. (ECF No. 1.) On May 26, 2017, the plaintiff requested a certificate of default, which the clerk of the court entered on June 5, 2017. (ECF Nos. 18, 20.) The plaintiff filed a motion for default judgment against Progressive on September 14, 2017, seeking an award for \$91,772.92, plus statutory interest commencing April 19, 2016, and \$5,177.50 in attorneys' fees and costs. (ECF No. 22.) On December 19, 2017, the Honorable Vera M. Scanlon denied the plaintiff's motion without prejudice. On January 5, 2018, the plaintiff filed a combined motion for default judgment against Progressive and summary judgment against Emil Hadad. (ECF No. 26.) In the motion for default judgment against Progressive, the plaintiff requested an award of \$91,772.92, plus pre-judgment interest at the statutory interest rate from April 19, 2016, through the entry of judgment, and post-judgment interest from the date of entry of judgment. (*Id.* at 6.) The plaintiff also asked for \$10,372.52 in attorneys' fees and costs against both Progressive and Emil Hadad. (*Id.* at 4-6.) On August 15, 2018, Judge Scanlon issued a Report and Recommendation in which she recommended that I

grant the plaintiff's motion for default judgment against Progressive, and award the plaintiff against Progressive \$91,772.92 in damages; prejudgment interest at a rate of \$22.62 per diem, calculated from April 19, 2016, to entry of judgment; \$5,046.27 in attorneys' fees and costs; and post-judgment interest at the statutory rate commencing after entry of judgment. (ECF No. 29.) No objections have been filed to the Report and Recommendation, and the time for doing so has passed. (*Id.*)

In reviewing a Report and Recommendation, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). Where no party has objected to the magistrate judge's recommendation, "a district court need only satisfy itself that there is no clear error on the face of the record." *Urena v. New York*, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (quoting *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)).

I have carefully reviewed Judge Scanlon's well-reasoned Report and Recommendation, and find that there is no clear error. Accordingly, I adopt the Report and Recommendation in its entirety. The plaintiff's motion for default judgment against Progressive is granted, and judgment is entered in favor of the plaintiff and against Progressive in the amount of \$91,772.92, plus prejudgment interest at a rate of \$22.62 per diem, calculated from April 19, 2016, to entry of judgment, \$5,046.27 in attorneys' fees and costs, and post-judgment interest at the statutory rate commencing after entry of judgment.

SO ORDERED.

s/Ann M. Donnelly

Ann M. Donnelly
United States District Judge

Dated: Brooklyn, New York
September 5, 2018